

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

HOWELL W. WOLTZ,

Plaintiff,

v.

CIVIL ACTION NO. 5:08-cv-01013

MATTHEW J. HOEFLING, et al.,

Defendants.

ORDER OF DISMISSAL

Plaintiff Howell W. Woltz filed this action for declaratory judgment and monetary damages alleging that Defendants committed legal malpractice during their representation of Plaintiff in a recent criminal trial. By Standing Order entered August 1, 2006, and filed in this case on August 20, 2008, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation (PF&R). Magistrate Judge VanDervort filed his PF&R on October 28, 2008 [Docket 7]. In that filing, the magistrate judge recommended that the Court dismiss Plaintiff's civil action for want of subject matter jurisdiction.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of de novo review and Petitioner's right to appeal this Court's order. See *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge VanDervort's

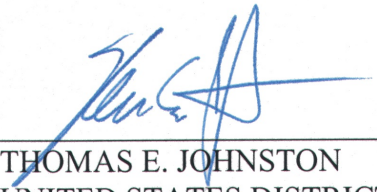
PF&R were due by November 17, 2008, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). To date, no objections have been filed.

Having reviewed the PF&R, the Court **ADOPTS** Magistrate Judge VanDervort's recommendations. Finding that the Court lacks jurisdiction to entertain this action, it is hereby **DISMISSED WITHOUT PREJUDICE**. The Court **DIRECTS** the Clerk to send a copy of this Order of Dismissal to Plaintiff, pro se, all unrepresented parties, and Magistrate Judge VanDervort.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: January 8, 2009



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE